

## Enforcement Committee Minutes

June 5, 2012

### Kodiak Harbor Convention Center, Katurwik Room

Committee present: Roy Hyder (Chair), LT Anthony Kenne, Martin Loefflad, Asst. Special Agent in Charge Ken Hansen, Special Agent in Charge Sherrie Myers, Glenn Merrill, Major Steve Bear, Jonathan Streifel, and Jon McCracken (staff)

Others present: Sarah Milton, Steve MacLean, David Witherell, Chris Oliver, Brad Robbins, Bruce Buckson (Director of Office of Law Enforcement), Brent Pristas, Tom Pearson, LT Natalia Best, Stephanie Madsen, Donald Lane, Keith Bruton, Alan Kinman, and George Hutchings

#### **I. C-2 Initial review of HAPC skate sites**

Sarah Melton, Council staff, provided an overview of the revised analysis concerning designation of Habitat Areas of Particular Concern for egg concentration sites for several species of skates in the Bering Sea. At the April meeting, the Council asked staff to expand the analysis to include current technology, including VMS, to monitor activity in and around skate egg concentration sites.

If the Council intends to implement management measure to identify and conserve any combination of skate egg concentration sites identified under Alternative 3, the Enforcement Committee recommends adopting Option C, specifically to include pelagic trawl gear.

Additionally, if the above management measures are adopted for any combination of HAPC sites, the Enforcement Committee recommends adopting the boundaries identified in Alternative 2 in combination with "geo-fencing," such that polling rates of vessel VMS units are increased when vessels near and/or cross the boundaries of the HAPC area. Any additional cost of increased polling rates while near and/or inside a geo-fenced area would be paid by the vessel. If "geo-fencing" is not adopted, and management measures are still retained, the Enforcement Committee recommends boundaries for HAPC areas as identified in Alternative 3 are maintained.

#### **II. D-1(a) Discussion paper on limiting other gear on jig vessels**

Sarah Melton, Council staff, presented the discussion paper on limiting other gear on board vessels jigging for Pacific cod in the GOA. The discussion paper stems from a foreseen need to limit other gear on board vessels jigging for Pacific cod, due to the new management and allocation structure implemented by Amendment 83. With separate sector allocations, there could be incentive to increase the duration of one sector's fishing season at the expense of another; specifically extending the duration of the longline or pot sector season by misreporting catch from these gear types as jig-caught and/or increasing the likelihood of attaining the jig quota and thereby receiving subsequent 'step-up' in the jig gear allocation.

Recognizing the potential for increased incentive to misreport Pacific cod catch under sector splits, the Committee noted that there is no clear indication that widespread misreporting of catch is occurring at this time. The Committee recognized enforcement and compliance concerns with some of the current options, and discussed alternative methods of addressing the potential issues of misreporting. If the Council elects to move forward on this issue, the Committee recommends consideration of a check-in/declaration option, as outlined below, be included in the next iteration of the analysis. The Committee felt a check-in/declaration procedure worthy of consideration, as less burdensome to the industry and more practicable

for effective for law enforcement relative to other alternatives. Additionally, a check-in procedure may also interface well with a with the restructured observer program.

### **Potential elements of Check-In/Declaration approach**

1. Requirement for pre-fishing phone or web-based “check-in/declaration”, prior to conducting directed fishing for Pacific cod with jig gear. Check-in remains valid until revoked by permit-holder. Check-in would deactivate upon closure of directed jig fishing season. Separate A and B season check-in would be required.
2. Prohibition on directed fishing for Pacific cod with other than jig gear when “checked-in” for jig directed fishing.

**Enforceable at sea:** Enforcement patrol units observing vessels fishing with jig or any other gear type would be able to consult listing of vessels on checked-into the fishery in real time or following patrol. While jig vessels are not currently required to operate VMS, other gear type vessels would be required to operate VMS while directed fishing for Pacific cod, and could be cross-referenced at any time against a list of jig-declared vessels.

**Increased deterrence to misreport of gear type:** The requirement to pre-register to jig-only directed fish provides a strong deterrent to any “opportunistic” ability to misreport gear type used at landing.

**Allows for other fishing gear to be carried aboard a vessel while jig fishing:** This draft regulatory program does not prohibit carrying onboard other gears, or create a problem to enforce/comply with the limitation on the number of “fishable” hooks aboard. This does not disrupt current fishing practices or those vessels traveling distances to conduct fishing operations in other areas/fisheries.

**Interplay with directed halibut fishing:** Jig vessels intending to fish for IFQ halibut during overlap of lawful jig directed season and IFQ season would simply check-in to Pacific cod jig directed fishery and would be lawful to directed fish for both species. Vessel operators using longline gear to harvest IFQ halibut would be lawful to land any amount of IFQ halibut and Pacific cod with longline gear, but would not be able to report any jig caught Pacific cod if not “checked-in” to jig fishery. Vessels would still be required to report catch from separate gears on different fish tickets.

**B season jig directed cod season:** Industry members indicated the jig “B” season was a period of high interest and importance for participants. This season opens on June 10 for the jig sector. Longline and pot “B” season opens September 1. Thus, this timing would not interfere with combined Pacific cod/IFQ halibut fishing, and, given other gear types would be closed for Pacific cod directed fishing, the compliance threat of misreporting gear type is moot, and there would be no further need for a prohibition on carriage of multiple gear types or number of hooks.

**Level playing field:** While the analysis indicates the primary concern is misreporting of longline harvests as jig harvests; if/when the full jig step-up allocation is realized, this regulatory program could also equally deter operators using jig gear from misreporting jig harvests as longline harvested.

### **III. Round island prohibitions**

Special Agent Ken Hansen, OLE, provided an update on the existing Round Island transit prohibition. Per 50 CFR 679.22 (a)(4), between April 1 and Sept 30, vessels with an FFP are prohibited from transiting between 3 and 12 nm from the baseline at Round Island and The Twins (Northern Bristol Bay area) (see Figure 1). This is a longstanding prohibition, intended to provide reduced disruption to the walrus haulouts at these locations.

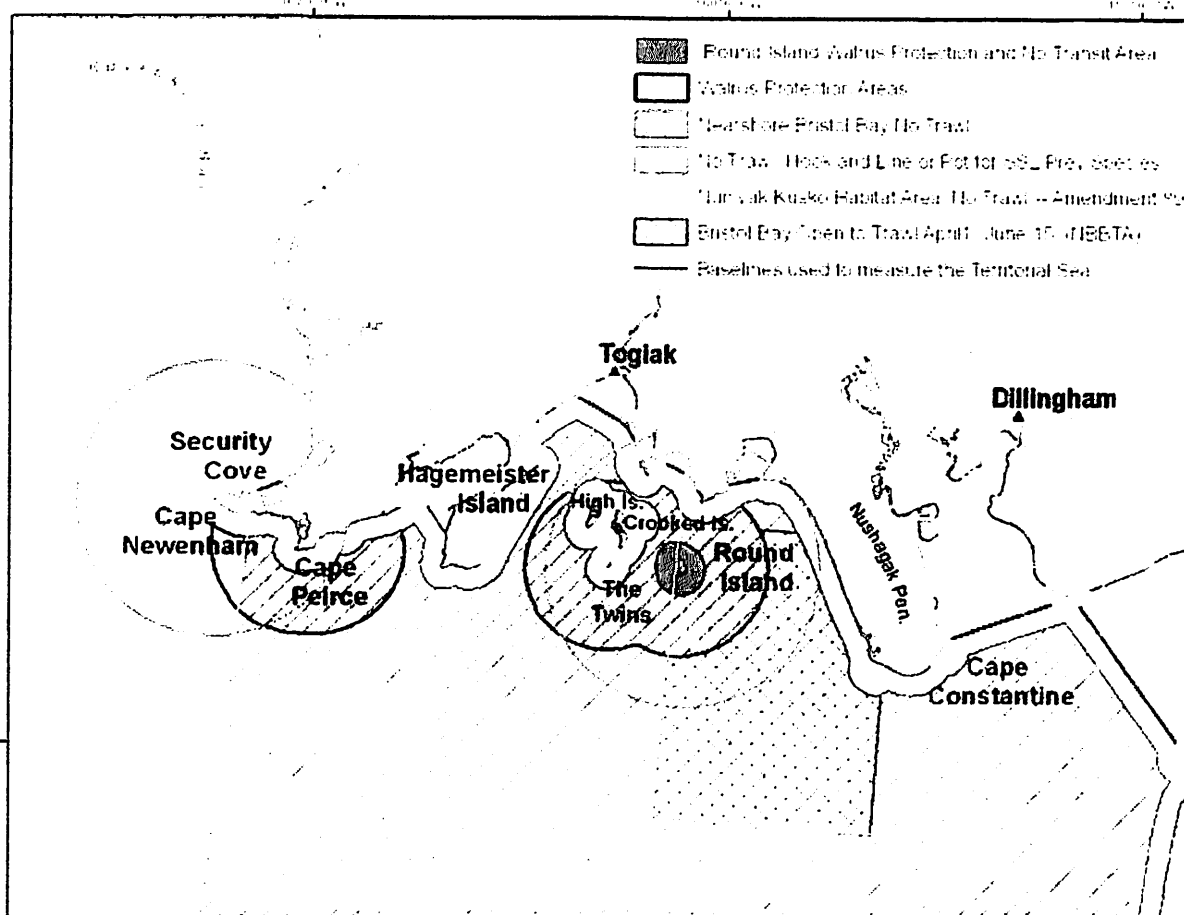


Figure 1. Hagemeister Island and Round Island Protection Areas

In 2010, as part of the potential action to create a new closed around a new walrus haulout at Hagemeister Island, there was Council discussion of this issue, and a proposed option for a “transit lane” through the Round Island area. This proposal did not move forward. Over the years, NOAA OLE has taken a proactive education approach with vessel operators and processors in the Northern Bristol Bay area. The primary fleet that this prohibition effects are the vessels serving as tenders between the Togiak area herring and maybe salmon fisheries and processors in Naknak and other areas within Bristol Bay.

In the past, this has not been an enforcement priority, due in part to there being a process for vessel owner/operators to “surrender” their FFP to exempt themselves from the application of this prohibition, then reapplying in the fall or when done tendering. However, with the recent passage of the suite of regulations implementing sector splits, the ability for a vast majority of vessels to surrender their FFP to comply with this prohibition has been precluded. A significant number of the vessels which operate as

tenders in this area hold a FFP to participate in other fisheries, and if the FFP were surrendered, could not be re-obtained during the 3 year cycle.

Going “around” these two islands requires a significant detour through more offshore waters. Informal discussions with USFWS indicate a strong desire to limit increases in vessel traffic past the walrus haulout on the NW shore of Hagemeister Island. Likewise, another possibility technically involves remaining inside 3 nm state waters on the very northern shore of Bristol Bay, between Togiak Bay and the Nushagak Pen, but this area is reportedly shallow and potentially presents increased safety considerations.

Vessel operators have approached OLE for their response to this new situation. Although the Round Island regulations are clear, it is recognized that the recent changes have exacerbated the enforcement and compliance situation. Compounding the issue is the regulation’s intent to afford some heightened protections for walrus, a species under primary management of USFWS. The Committee noted during their discussion on this issue, that a regulatory amendment that requires a vessel to check-in/check-out while transiting through the Round Island No-Transit Area may address concerns of federally permitted vessels moving through this area.

#### **IV. “MapView” software for regulatory closure locations and boundaries**

Special Agent Brent Pristas, NOAA OLE, provided a demonstration of the “MapView” program. At the April 2012 meeting, the Council tasked the Enforcement Committee to explore the availability of agency-issued software that could be integrated with the existing navigation software to show closed areas. This program is available/downloadable to the industry from the NOAA Alaska Region website, and is provided to industry in a CD format by OLE. This program appears to provide much of the information the industry is requesting. Should it be desired, OLE is interested in providing an overview of this program to the AP at a future Council meeting.